

State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

661M0199

SENATE BILL NO. 185

Introduced by: Senators Duenwald, Abdallah, Apa, Bartling, Duniphan, Earley, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Kelly, Kloucek, Koskan, McNenny, Napoli, Olson (Ed), Schoenbeck, Smidt, Sutton (Dan), and Two Bulls and Representatives McCoy, Davis, Frost, Fryslic, Hackl, Hunt, Jerke, Kraus, Lange, Rausch, Rave, Schafer, Tornow, Van Etten, and Wick

1 FOR AN ACT ENTITLED, An Act to require inspections of certain facilities by the Department
2 of Health.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-23A-1 be amended by adding thereto NEW SUBDIVISIONS to read
5 as follows:

6 "Abortion facility," a place where abortions are performed;

7 "Department," the South Dakota Department of Health;

8 Section 2. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 Except as provided by section 3 of this Act, no person may establish or operate an abortion
11 facility in this state without an appropriate license issued under this Act. Each abortion facility
12 shall have a separate license. No abortion facility license is transferrable or assignable.

13 Section 3. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
14 as follows:



1 The following facilities need not be licensed under this Act:

2 (1) A health care facility licensed pursuant to chapter 34-12; or

3 (2) The office of a physician licensed pursuant to chapter 36-4 unless the office is used
4 for performing abortions.

5 Section 4. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 An applicant for an abortion facility license shall submit an application to the department
8 on a form prescribed by the department. The application shall be accompanied by a
9 nonrefundable license fee in an amount set by the department by rules promulgated pursuant to
10 chapter 1-26. The license fee may not exceed two thousand dollars. The application shall
11 contain evidence that there are one or more physicians on the staff of the facility who are
12 licensed by the State Board of Medical and Osteopathic Examiners. The department shall issue
13 a license if, after inspection and investigation, it finds that the applicant and the abortion facility
14 meet the requirements of this Act and the standards promulgated in rules adopted pursuant to
15 this Act. As a condition for renewal of a license, the licensee shall submit to the department the
16 annual license renewal fee set by rules promulgated pursuant to chapter 1-26.

17 Section 5. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 The department may inspect an abortion facility at reasonable times as necessary to ensure
20 compliance with this Act. The department shall inspect an abortion facility before renewing the
21 facility's license.

22 Section 6. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 Any fees collected under this Act shall be deposited in the abortion facility licensing fund

1 and are continuously appropriated to administer and enforce this Act.

2 Section 7. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The department shall adopt rules pursuant to chapter 1-26 for the issuance, renewal, denial,
5 suspension, and revocation of a license to operate an abortion facility. The department shall
6 adopt, by rules promulgated pursuant to chapter 1-26, minimum standards to protect the health
7 and safety of a patient of an abortion facility.